

10.2.2

Summary Suspension Procedure

Procedure

1. Licensing staff who determine that the health and safety of children is in jeopardy must take immediate licensing action.
2. Licensing staff may determine that the health and safety of children is in jeopardy when there is:
 - a. Direct observation of a child care facility by a licensor.
 - b. Another outside entity, such as, but not limited to, the local building or city officials, local health jurisdictions, or the State Fire Marshal, has declared that extreme health and safety conditions exist which cannot be immediately remedied.
 - c. A DLR/CPS report of alleged child abuse and neglect or where DLR/CPS is advising DEL that such concerns warrant the license being suspended.
3. Licensing staff must be able to demonstrate through clear documentation that no other alternative licensing actions, i.e., compliance agreement, would be able to mitigate or remedy the health and safety concerns in the facility prior to recommending a summary suspension.
4. When a summary suspension action notice has been initiated, voluntary license surrender may not be accepted, as a temporary measure, unless approved by a Regional Administrator (RA) or designee.
5. A voluntary closure may be accepted if the situation is temporary. For example, if there is a health and safety concern that does not permit the home or center to remain open, but can be remedied through changes to the facility, a voluntary closure of a license may be permitted. The RA, or designee, must approve all voluntary license surrenders.
6. If two actions occur at the same time, such as a summary suspension and revocation, both will proceed concurrently. In this instance, the licensor will follow through with both actions simultaneously, and follow the procedures outlined in the specific procedures that apply.

Approval

7. If licensing staff determine that a summary suspension is the appropriate licensing action, s/he must obtain approval from his/her direct supervisor. The supervisor may recommend alternative licensing actions.
8. If the direct supervisor is not available, the licensing staff must immediately contact one of the following individuals:
 - a. Another supervisor from the same service area;
 - b. RA;
 - c. CCSLA at the State Office.
9. If approved by the supervisor, the supervisor will contact the RA for approval.

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10. Final permission to proceed with a summary suspension will be granted by the CCSLA or designee.

Documentation

11. Licensing staff must prepare a 10.10.13 Notice of Summary Suspension and Suspension of Child Care License letter for the supervisor's review. The RA, or designee, will determine if the legal letter warrants an Assistant Attorney General (AAG) review to obtain legal advice.
12. Licensing staff must prepare a Licensed Critical Incident Report (LCIR) for submission to the RA or designee through the supervisor. The LCIR must clearly document the licensee's complaint history, circumstances surrounding the need for a summary suspension, and the decision of the supervisor and/or RA.
13. Once approved by the RA, all relevant documentation will be forwarded from the RA to the Child Care Statewide Licensing Administrator (CCSLA).
14. Licensing staff must prepare and update, as appropriate, documentation within FamLink detailing events and rationale which led to the summary suspension.
15. Within ten days, licensing staff must prepare and forward all relevant, legal letters to the appropriate Licensing Analyst (LA) for purposes of data analysis after the summary suspension has been issued.
16. Follow the LCIR procedure for distribution of the LCIR.

Issuance and follow up

17. A summary suspension must be delivered to the licensee in person by licensing staff or personally served by an authorized process server.
18. A child care license is not legally suspended until the licensee has the suspension letter in hand, specifying the licensee's due process rights. Licensing staff must complete the 10.9.1.4 Declaration of Personal Service Form.
19. The licensor informs the licensee of their requirement to immediately provide the address and telephone numbers of parents / guardians of the children enrolled.
20. Licensing staff must make a reasonable attempt to inform parents of the licensing action by phone, mail or by meeting them at the facility. Licensing staff will offer parents contact information, to the Child Care Resource and Referral (CCR&R) to find alternate care.
21. Licensors must notify the following entities of a summary suspension, within 3 business days, by automated e-mail using the no referral management tool via the toolkit:
 - a. Community service offices in the area
 - b. Child Care Resource and Referral (CCR&R)
 - c. Superintendent of Public Instruction – food program

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22. Summary suspensions are temporary and may be followed up with additional licensing actions. Timeframes must be clearly stated in the notice of summary suspension regarding due process. Generally, summary suspensions are followed up with a revocation or with full restoration of the license. Licensing staff must follow up on all summary suspensions to ensure proper conclusion and resolution.
23. If the summary suspension is rescinded, licensing staff will send a letter to the licensee stating the date the withdrawal became effective. This letter will be sent by either certified mail or hand delivered within three days of the decision to withdraw the summary suspension.
24. If the Summary Suspension is rescinded, the licensor must notify the following entities within 3 business days, by automated e-mail using the no referral management tool via the toolkit.
 - a. Community service offices in the area
 - b. Child Care Resource and Referral (CCR&R)
 - c. Superintendent of Public Instruction – food program
25. If a licensee voluntarily surrenders a license and subsequently reapplies, all issues associated with the voluntary surrender must be reviewed when determining denial or approval of the new application.

Definitions

Jeopardy may be a direct impact on the health, safety or well-being of one or more of the children cared for by the facility.

Summary Suspension takes effect in less than 28 days. This action is reserved for those instances where there is risk of harm to the children in care and immediate action is necessary.

Licensing Staff may include anyone in the Licensing Oversight Division, licensors, supervisors, Health Specialists, Licensing Analysts, RAs, CCSLA, and support staff.